

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BIG CHIEF PLANT SERVICES, LLC,

Plaintiff/Counter-defendant,

v.

No. 18-cv-1226 SMV/CG

PANHANDLE MAINTENANCE, LLC,

Defendant/Counterclaimant/Third-Party Plaintiff,

v.

3BEAR DELAWARE OPERATING-NM, LLC.¹

Third-Party Defendant.

**ORDER GRANTING
MOTION TO COMPEL DISCOVERY IN AID OF EXECUTION**

THIS MATTER is before the Court on Defendant Panhandle Maintenance, LLC's Motion for Order to Compel [Doc. 113], filed on December 13, 2020. The Court will grant the Motion, order Plaintiff Big Chief Plant Services, LLC ("Big Chief") to respond to the discovery requests no later than February 17, 2021, and grant Defendant Panhandle Maintenance, LLC ("Panhandle") its reasonable expenses incurred in making the Motion.

A stipulated Consent Judgment was entered by this Court on February 18, 2020, in favor Panhandle of against Big Chief in the amount of \$240,000. [Doc. 111]. Panhandle served its First Set of Interrogatories and Requests for Production in Aid of Execution on Big Chief on October 14, 2020. [Doc. 112]. Big Chief failed to respond to Panhandle's discovery requests. *See* [Doc. 113].

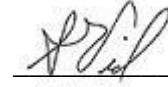
¹ Third-Party Defendant 3Bear Delaware Operating-NM, LLC, was terminated from this action on October 7, 2019, after the Court granted its Motion for Summary Judgment. *See* [Doc. 97].

Panhandle, therefore, filed the instant Motion to Compel on December 13, 2020. *Id.* Big Chief also failed to respond to the Motion in any way. Accordingly, the Court will grant the Motion. *See* D.N.M.LR-Civ. 7.1(b) (failure to timely respond to a motion constitutes consent to grant it).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant Panhandle Maintenance, LLC's Motion for Order to Compel [Doc. 113] be **GRANTED**. Plaintiff Big Chief Plant Services, LLC must respond to the discovery propounded by Panhandle Maintenance, LLC **no later than close of business, Wednesday, February 17, 2021.**

IT IS FURTHER ORDERED that Plaintiff Big Chief Plant Services, LLC pay the reasonable expenses, including attorney fees, incurred by Defendant Panhandle Maintenance, LLC, in making the instant Motion, as required by Fed. R. Civ. P. 37(a)(5)(A). Defense counsel may file an affidavit of such expenses **no later than February 5, 2021.** Plaintiff Big Chief Plant Services, LLC, may object to the amount and/or reasonableness of such expenses within fourteen days of the filing of the affidavit.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge
Presiding by Consent